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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,759	08/06/2003	Toshiyuki Sakuma	500.43002X00	6862

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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

EXAMINER

HAIDER, FAWAAD

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

03/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/634,759

Applicant(s)

SAKUMA ET AL.

Examiner

FAWAAD HAIDER

Art Unit

3627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI-08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/12/2008 has been entered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1 and 20 are directed to an inventory control system. However, this is merely software, and it has been held that software without a required computer-readable medium-storing the software that, when executed, causes the computer to perform a particular process or method (MPEP 2106.01) is merely nonfunctional descriptive material and non-statutory under 35 U.S.C. 101.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The following limitation in claim 1 appears to be ambiguous or wordy: "wherein the safety stock calculating means newly calculates a safety stock based upon the parameter such as standard deviation and the updated setting value each time the setting value is updated to update a current safety stock." The paragraph appears to be missing commas, or some words may be omitted.

5. Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). This is found throughout claim 1 multiple times.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheer (2002/0161674) in view of Nagata (2002/0077979).

Re Claim 1: Scheer discloses comprising: demand predicting means for calculating a predicted value of a demand based on past actual demand information

(see Abstract, [0004, 0026, 0192, 0197, 0216, 0233, 0239]); actual value retrieval means for retrieving an actual value of demand which is compared with the predicted demand value (see [0026, 0196, 0216]); predicted remainder calculating means for calculating a predicted remainder which is a difference between the predicted demand value and the actual value (see [0028, 0163, 0187, 0208]); parameter calculating means for calculating a parameter such as standard deviation by employing the predicted remainder (see [0184-0185, 0208, 0236-0238]); safety stock calculating means for calculating safety stock based upon said parameter (see [0024, 0039, 0132-0133, 0165, 0178, 0183, 0193, 0214, 0245]); input means for accepting setting or updating of a setting value such as a planning cycle, and at least one of a procurement lead time and a plan lead time (see [0004, 0034, 0036, 0165, 0179]), wherein the demand predicting means calculates planned demand value of a second past time period based on an actual demand value of a first past time period stored in the data storage means (see [0027-0029]). Scheer also discloses wherein the actual value retrieval means retrieves and totalizes actual demand values corresponding to the second past time period stored in the data storage means (see [0215]). Scheer discloses wherein the predicted remainder calculating means calculates a predicted remainder, which is a difference between the planned demand value of the second past time period and the actual demand value of the second past time period (see [0028, 0163, 0187, 0208]). Scheer also discloses wherein the process is repeatedly performed as for different past time periods until a necessary number of samples of predicted reminders has been obtained; wherein the parameter calculating means calculates a standard deviation based on the

plurality of the samples of the predicted reminders obtained by the repeated calculation, and wherein the safety stock calculating means newly calculates a safety stock based upon the parameter such as standard deviation and the updated setting value each time the setting value is updated to update a current safety stock (see [0024, 0039, 0132-0133, 0245]).

The examiner takes Official Notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to disclose wherein a process is performed in which the demand predicting means calculates a planned demand value of a fourth past time period which is different from the second past time period, based on an actual demand value of a third past time period stored in the data storage means which is different from the first past time period, the actual value retrieval means retrieves and totalizes actual demand value corresponding to the fourth past time period, and the predicted remainder calculating means calculates a predicted reminder from the planned demand value of the fourth past time period and the actual demand value of the fourth past time period to obtain a new sample of the predicted reminder. This is merely repeating the process above.

Scheer fails to disclose a data storage means. However, Nagata discloses a data storage means storing therein in time sequence the respective setting values and the actual demand information at every unit time period from a past time to a present time (see [0179, 0270-0272, 0278-0279, 0326]). It would have been obvious to modify Scheer's invention with Nagata's disclosure of a data storage means in order to make an access to a management table for storing therein data (see [0038]).

Re Claim 20: The examiner takes Official Notice that it would have been obvious to one of ordinary skill in the art at the time of the invention to disclose wherein each of the stored second and fourth past time periods is a time period substantially same as a planned range which is a sum of the planning cycle, the procurement lead time, and the plan lead time.

Response to Arguments

8. Applicant's arguments filed 2/28/2008 have been fully considered but they are not persuasive. The 112 rejections have not been met, and there are multiple instances of "such as" in claim 1. An additional 101 rejection is included and needs to be considered.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fawaad Haider whose telephone number is 571-272-7178. The examiner can normally be reached on Monday-Friday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Fawaad Haider/
Examiner
Art Unit 3627

FIH

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627